

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Mark Wallace, Presiding
Courtroom 6C Calendar**

Monday, November 8, 2021

Hearing Room

6C

9:00 AM

8:18-14204 Barbara Jo O'Brien

Chapter 13

#1.00

Motion for relief from stay [Real Property]

The Bank of New York Mellon vs DEBTOR
(Motion filed 10-12-21)

[RE: 24322 Val Verde Court #223, Laguna Hills, California, 92653]

Docket 58

Tentative Ruling:

APPEARANCES REQUIRED.

The motion is granted pursuant to 11 U.S.C. §§ 362(d)(1) to permit movant, its successors, transferees and assigns, to enforce its remedies to foreclose upon and obtain possession of the subject property in accordance with applicable law, *unless* the debtor pays all arrearages in full on or before the hearing date on this matter. Movant may not pursue any deficiency claim against the debtor or the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501.

The 14-day stay provided by Rule 4001(a)(3) is waived.

Terminate the co-debtor stay.

MOVANT TO LODGE ORDER VIA LOU WITHIN 7 DAYS.

Party Information

Debtor(s):

Barbara Jo O'Brien

Represented By
Daniel King

Trustee(s):

**United States Bankruptcy Court
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CONT... **Barbara Jo O'Brien**
Amrane (SA) Cohen (TR)

Pro Se

Chapter 13

**United States Bankruptcy Court
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9:00 AM

8:21-11703 DGWB, Inc.

Chapter 7

#2.00

CONT'D Motion for relief from stay [Action In Non-Bankruptcy Forum]

Wismann Group LLV vs DEBTOR
(Motion filed 9-3-21)

**[RE: Case Name: Genesis 1 Oil Services LLC et al vs. Wis]
[Docket Number: 8:20-cv-02114-JLS-ADS]
[Pending In: U.S. District Court, Santa Ana]**

FR: 9-27-21

Docket 15

Tentative Ruling:

APPEARANCES REQUIRED.

The Court will grant the Motion on the terms of Trustee's conditional non-opposition.

MOVANT TO LODGE ORDER VIA LOU WITHIN 7 DAYS.

Party Information

Debtor(s):

DGWB, Inc.

Represented By
Thomas J Polis

Trustee(s):

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
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Monday, November 8, 2021

Hearing Room

6C

2:00 PM

8:17-10699 Sen Hieu Phung

Chapter 7

#1.00

Hearing RE: Motion For Order Approving Compromise Of Controversy With The Bisol Firm Pursuant To Federal Rule Of Bankruptcy Procedure 9019 (Motion filed 10-18-21)

Docket 126

Tentative Ruling:

APPEARANCES REQUIRED.

The Court gives great latitude to chapter 7 trustees in compromises, but here the Chapter 7 Trustee is proposing to settle a claim of \$28,824.33 by paying the Claimant \$40,000.00 - about \$11,000.00 more than the Claimant states that Claimant is owed. This calls for an explanation.

Party Information

Debtor(s):

Sen Hieu Phung

Represented By
Jeffrey J Hagen

Trustee(s):

Jeffrey I Golden (TR)

Represented By
Jeffrey I Golden
Reem J Bello

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2:00 PM

8:18-13870 Francisco Ramirez Ramirez and Aurora Mendez Barajas

Chapter 13

#2.00

CONT'D STATUS CONFERENCE Hearing RE: Objection To Proof Of Claim:

Claim No. 3 Investment Consultants, Inc. \$163284.01
(Motion filed 3/29/2019)
(Order Entered 9/27/2019)
[Case Transferred from CB on 7/31/2020]
[Case Remanded And Reversed (Docket No. 70)]
(S/C set per Order Entered 8/4/2020)

FR: 5-9-19; 8-8-19; 10-7-20; 1-11-21; 4-26-21; 6-14-21; 8-9-21

Docket 39

***** VACATED *** REASON: OFF CALENDAR - ORDER APPROVING
SETTLEMENT AGREEMENT REGARDING PROOF OF CLAIM NO. 3
ENTERED ON 10-12-21 (DOCKET NO. 138).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Francisco Ramirez Ramirez

Represented By
Misty A Perry Isaacson

Joint Debtor(s):

Aurora Mendez Barajas

Represented By
Misty A Perry Isaacson

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:21-10027 Jose G De Loera and Judith De Loera

Chapter 7

#3.00

Hearing RE: Trustee's Final Report And Applications For Compensation And Reimbursement Of Expenses
(Final Report filed 9-29-21)

**[RE: Thomas H. Casey, Chapter 7 Trustee]
[Fees: \$1,250.00; Expenses: \$83.66]**

Docket 34

Tentative Ruling:

APPEARANCES NOT REQUIRED.

In a case under chapter 7 or 11, the court may allow reasonable compensation under § 330 to the trustee for the trustee's services, payable after the trustee renders such services, not to exceed 25% on the first \$5,000 or less, 10% on any amount in excess of \$5,000 but not in excess of \$50,000, 5% on any amount in excess of \$50,000 but not in excess of \$1,000,000, and reasonable compensation not to exceed 3% of such moneys in excess of \$1,000,000, upon all moneys disbursed or turned over in the case by the trustee to parties in interest, excluding the debtor, but including holders of secured claims. 11 U.S.C. § 326(a).

The Court finds that the Trustee's requested compensation meets the requirements of 11 U.S.C. § 326(a) and represents reasonable compensation for actual, necessary services rendered in the administration of this estate.

The compensation is approved as to the Trustee, with fees in the amount of \$1,250.00 and expenses in the amount of \$83.66.

CHAPTER 7 TRUSTEE TO LODGE ORDER VIA LOU WITHIN 7 DAYS.

Party Information

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CONT... Jose G De Loera and Judith De Loera

Chapter 7

Debtor(s):

Jose G De Loera

Represented By
Arlene M Tokarz

Joint Debtor(s):

Judith De Loera

Represented By
Arlene M Tokarz

Trustee(s):

Thomas H Casey (TR)

Pro Se

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8:21-10060 Amir Saati

Chapter 7

#4.00

CONT'D Hearing RE: Objection to Debtor's Claimed Exemptions
(Motion filed 9-30-21)

FR: 10-25-21

Docket 81

***** VACATED *** REASON: OFF CALENDAR - NOTICE OF
WITHDRAWAL FILED 10-26-21 (DOCKET NO. 104).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Amir Saati

Represented By
Michael S Kogan

Trustee(s):

Richard A Marshack (TR)

Represented By
Michael G Spector

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8:21-10060 Amir Saati

Chapter 7

#5.00

CONT'D Hearing RE: Motion to Compel Abandonment of Property by Trustee
(Motion filed 6-1-21)

[RE: 13 West Yale Loop, Irvine, CA 92604]

FR: 7-12-21

Docket 37

Tentative Ruling:

APPEARANCES NOT REQUIRED.

Taking into account the Court's overruling of the Chapter 7 Trustee's objection to a \$600,000.00 homestead exemption, it is evident there is no equity in the subject property for the bankruptcy estate. Therefore, the Court will grant the Motion.

DEBTOR TO LODGE ORDER VIA LOU WITHIN 7 DAYS.

Party Information

Debtor(s):

Amir Saati

Represented By
Michael S Kogan

Trustee(s):

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court
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6C

2:00 PM

8:21-10026 Ardeshir Farokhirad and Fariba Farokhirad

Chapter 7

#6.00

Hearing RE: Motion to Extend Deadline to File Complaint to Determine Dischargeability of Debts Pursuant to 11 U.S.C. Section 523 and Objections to Discharge Pursuant to 11 U.S.C. Section 727 (Motion filed 10-14-21)

Docket 212

Tentative Ruling:

APPEARANCES REQUIRED.

Arguments as to the merits or lack of merit of a potential adversary proceeding are not germane to a motion to extend the deadline for filing an adversary complaint. The Court grants the motion and extends the deadline to January 14, 2022.

MOVANT TO LODGE ORDER VIA LOU WITHIN 7 DAYS.

Party Information

Debtor(s):

Ardeshir Farokhirad

Represented By
Andrew Edward Smyth
Stephen S Smyth

Joint Debtor(s):

Fariba Farokhirad

Represented By
Andrew Edward Smyth

Trustee(s):

Thomas H Casey (TR)

Represented By
Thomas H Casey

**United States Bankruptcy Court
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2:00 PM

8:20-11083 239 Carnation LLC, a Texas Limited Liability Compa

Chapter 11

#7.00

CONT'D Hearing RE: U.S. Trustee Motion to dismiss or convert Pursuant to 11
U.S.C. § 1112(b)
(Motion filed 4-20-21)

FR: 6-14-21; 8-9-21; 9-13-21

Docket 97

Tentative Ruling:

APPEARANCES REQUIRED.

The Court will inquire whether the UST still wishes to prosecute this Motion.

Party Information

Debtor(s):

239 Carnation LLC, a Texas Limited

Represented By
Jeffrey I Golden
Beth Gaschen

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2:00 PM

8:21-10619 Global Discovery Biosciences Corporation, a Delawa

Chapter 11

#8.00

CONT'D Hearing RE: Motion by Subchapter V Trustee to Convert Case to One
Under Chapter 7
(Motion filed 10-4-21)

FR: 10-25-21

Docket 200

***** VACATED *** REASON: OFF CALENDAR - ORDER
CONTINUING MOTION TO DECEMBER 15, 2021 AT 2:00 PM
ENTERED ON 10-27-21 (DOCKET NO. 225).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Global Discovery Biosciences

Represented By
Jeffrey I Golden
Beth Gaschen
Sonja Hourany

Trustee(s):

Mark M Sharf (TR)

Represented By
Monserrat Morales
Jeremy Faith

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8:21-11564 Cilka Elisa Muran Israel

Chapter 13

#9.00

Hearing RE: Debtor's Motion for Order: (1) Authorizing Sale of Estate's Right, Title and Interest in the Real Property Commonly Known as 1117 Dan Drive, Costa, CA Free and Clear of Liens; (2) Approving Overbid Procedures; (3) Approving Payment of Real Estate Brokers' Commissions; and (4) Finding Purchaser is a Good Faith Purchaser
(Motion filed 10-13-21)

Docket 23

***** VACATED *** REASON: OFF CALENDAR - ORDER DISMISSING
CHAPTER 13 CASE PER VOLUNTARY DISMISSAL ENTERED 11-2-21
(DOCKET NO. 34).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cilka Elisa Muran Israel

Represented By
Leonard Pena

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

8:18-13311 Ruby's Diner, Inc., a California corporation

Chapter 7

Adv#: 8:21-01014 Marshack v. Cavanaugh et al

#10.00

Hearing RE: Emergency Motion for Order Determining Satisfaction and Release
of Attachment Lien as to Real Property
(Motion filed 11-2-21)
(Set per OST on 11-2-21)

Docket 302

Tentative Ruling:

APPEARANCES REQUIRED.

No tentative ruling.

Party Information

Debtor(s):

Ruby's Diner, Inc., a California

Represented By
William N Lobel
Jeffrey P Nolan

Defendant(s):

Douglas Cavanaugh

Represented By
Leo A Bautista
Aviram Edward Muhtar
Maria L Garcia
Lawrence Treglia Jr

Ralph Kosmides

Represented By
Leo A Bautista
Aviram Edward Muhtar
Maria L Garcia
Lawrence Treglia Jr

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CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

Beachcomber Management Crystal

Represented By
Leo A Bautista
Maria L Garcia
Aviram Edward Muhtar

Lighthouse Cafe, LLC

Represented By
Steven C Smith
Stephen C Biggs
John S Clifford

Beachcomber at Crystal Cove, LLC

Represented By
Steven C Smith
Stephen C Biggs
John S Clifford

Shake Shack Crystal Cove, LLC

Represented By
Steven C Smith
Stephen C Biggs
John S Clifford

Plaintiff(s):

Richard A. Marshack

Represented By
Christopher Dale Beatty

Trustee(s):

Richard A Marshack (TR)

Represented By
Laila Masud
D Edward Hays
Tinho Mang
Christopher Dale Beatty

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8:18-13311 Ruby's Diner, Inc., a California corporation

Chapter 7

Adv#: 8:21-01014 Marshack v. Cavanaugh et al

#11.00

Hearing RE: Order to Show Cause Why the Court should not Dismiss with Prejudice the Adversary Proceeding Marshack v. Cavanuagh Et Al., Adv. No: 8:21-ap-01014-MW, on the Ground of Unclean Hands for Plaintiff's Alleged Wrongful Interference with Defendant Kosmides Effort to Sell Real Property Located at 30141 Hillside Terrace, San Juan Capistrano, CA 92675 (Set per OSC entered 11-2-21)

Docket 306

Tentative Ruling:

**IN PERSON APPEARANCES REQUIRED FOR ANY TESTIFYING
WITNESS AND ANY ATTORNEY EXAMINING OR CROSS-EXAMINING
ANY WITNESS.**

Defendant Kosmides alleges that Plaintiff attempted to scuttle Kosmides' planned sale of 30141 Hillside Terrace, San Juan Capistrano, CA 92675 (the "Subject Property") by asserting that unless Plaintiff is paid \$661,483.91, the attachment lien will remain on the Subject Property following the sale of the Subject Property to the person buying the Subject Property from Kosmides. Kosmides also alleges that he is willing to pay the full amount of the attachment lien out of the proceeds of sale (such amount is alleged to be \$68,717.12), but Plaintiff and/or his attorneys or other agents stated that the scuttling of the sale for the purpose of causing pain to Kosmides was "worth more to the Plaintiff than the surplus sales proceeds which would be attached."

The Court will first hear the oral argument of the parties with respect to (1) the true and correct amount of the attachment lien on the Subject Property, and (2) whether the foregoing allegations are true.

Next, the Court expects to hear live testimony of witnesses relating to what actually happened with respect to the attempted sale of the Subject Property and whether the

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CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

allegations stated above are true.

Finally, after oral testimony and cross examination has concluded, the Court will hear the closing argument of the parties as to whether the equity doctrine of unclean hands applies and requires the dismissal of this adversary proceeding with prejudice or whether some lesser sanction should be imposed or whether no sanction should be imposed.

Party Information

Debtor(s):

Ruby's Diner, Inc., a California

Represented By
William N Lobel
Jeffrey P Nolan

Defendant(s):

Douglas Cavanaugh

Represented By
Leo A Bautista
Aviram Edward Muhtar
Maria L Garcia
Lawrence Treglia Jr

Ralph Kosmides

Represented By
Leo A Bautista
Aviram Edward Muhtar
Maria L Garcia
Lawrence Treglia Jr

Beachcomber Management Crystal

Represented By
Leo A Bautista
Maria L Garcia
Aviram Edward Muhtar

Lighthouse Cafe, LLC

Represented By
Steven C Smith
Stephen C Biggs
John S Clifford

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CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

Beachcomber at Crystal Cove, LLC

Represented By
Steven C Smith
Stephen C Biggs
John S Clifford

Shake Shack Crystal Cove, LLC

Represented By
Steven C Smith
Stephen C Biggs
John S Clifford

Plaintiff(s):

Richard A. Marshack

Represented By
Christopher Dale Beatty

Trustee(s):

Richard A Marshack (TR)

Represented By
Laila Masud
D Edward Hays
Tinho Mang
Christopher Dale Beatty